IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

WP(C).No. 180 of 2006(U)

PETITIONER:

BHARTI TELE-VENTURES LIMITED,
"BHARTI TOWERS", S.A. ROAD, KADAVANTHRA,
KOCHI-682 020, REPRESENTED BY ITS SENIOR MANAGER-
LEGAL, SRI.P.JAYABAL MENON.

BY ADV. SRI.SANTHOSH MATHEW
SRI.SATHISH NINAN

RESPONDENTS:

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1. KAZHAKUTTOM GRAMA PANCHAYAT(SPL.GRADE),
KAZHAKUTTOM, THIRUVANANTHAPURAM-695 582,
REPRESENTED BY ITS SECRETARY.

ADDL. 2. SUB INSPECTOR OF POLICE,
KAZHAKUTTOM POLICE STATION,
THIRUVANANTHAPURAM.
(ADDL.R2 IS IMPLEADED AS PER ORDER DT.12.01.06
IN IA NO.417 OF 2006)

ADDL. 3. SUB INSPECTOR OF POLICE,
MANGALAPURAM POLICE STATION,
THIRUVANANTHAPURAM.
(ADDL.R3 IS IMPLEADED AS PER ORDER DT.23.02.06
IN IA NO.2791 OF 2006)

R1 BY ADV. SRI.M.RAJAGOPALAN NAIR
SRI.G.BIJU
ADDL. R2 & R3 BY ADV. SRI.K.J.MOHAMMED ANZAR, SR.GOVT. PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/10/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC : 180 OF 2006

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF THE BUILDING PERMIT NO.378/05-06 DATED 01.12.05 ISSUED BY THE RESPONDENT TO THE PETITIONER.

EXT.P2 : TRUE COPY OF THE MINUTES OF THE COMMITTEE MEETING HELD ON 12.12.05 OF THE RESPONDENT PANCHAYAT.

EXT.P3 : TRUE COPY OF THE LETTER DATED 13.12.05 ISSUED BY THE SECRETARY, KAZHAKUTTOM GRAMA PANCHAYAT TO THE PETITIONER.

/TRUE COPY/

PA TO JUDGE

PIUS C. KURIAKOSE, J.

W.P.(C) No. 180 OF 2006

Dated this the 8th day of October, 2007

JUDGMENT

This Writ Petition is filed by Petitioner, M/s.Bharti Tele-Ventures Ltd., seeking to quash Ext.P2 resolution of the Panchayat and Ext.P3 stop memo, in spite of Ext.P1 building permit by which the petitioner was permitted to construct a mobile tower.

2. The Panchayat has filed a detailed counter affidavit wherein their action is justified on the reason that a mass petition was received in the Panchayat complaining that the operation of the Mobile Tower will be highly injurious to human life and health. The construction of Tower is dangerous, according to the counter affidavit and Section 235(o) of the Panchayat Raj Act is referred to and it is pointed out that considering the serious health hazards which are likely to be caused to the citizenry of the Panchayat, the Panchayat was justified in issuing Exts.P2 and P3.

I am afraid that the issue is covered by a Division Bench judgment of this Court against the Panchayat, in **Reliance Infocom Ltd., v. Chemanchery Grama Panchayat** [2006 (4) KLT 695]. I dispose of the Writ Petition issuing the following directions:

Exts.P2 and P3 and quashed. The Panchayat is directed to take

fresh decision on the issue taking into account the principles laid down by the Division Bench in **Reliance's** case (supra). Fresh decision as directed above will be taken, after hearing the petitioner and a representative of the persons who filed the mass petition which is referred to in the counter affidavit. The operation of the Tower by the petitioner will be subject to the fresh orders to be passed by the Panchayat pursuant to this judgment.

PIUS C. KURIAKOSE, JUDGE

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